

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff,

v.

DOCTOR'S CHOICE MODESTO LLC, et al.,

Defendants.

Case No. 1:21-cv-00690-JLT-SAB

**ORDER REQUIRING PLAINTIFF TO FILE
ANY MOTION TO STRIKE ANSWERS,
AND VACATING PRETRIAL
CONFERENCE AND TRIAL DATES**

(ECF Nos. 76, 121, 128,)

21 DAY DEADLINE

A pretrial conference was set in this matter for September 1, 2023, and a trial for October 17, 2023, before previously assigned District Judge Ishii. (ECF No. 76.) This action was reassigned to District Judge Thurston on May 3, 2023. (ECF No. 121.) In the most recent status report from Plaintiff filed on July 31, 2023, Plaintiff indicated he would be filing motions to strike Defendants' answers, and would be seeking default and default judgment. (ECF No. 128.) On August 16, 2023, the Court issued an order advising the parties of the recent amendment of Local Rule 120(d), and that as this is an action or proceeding that arises in either the county of Calaveras or Stanislaus, this case will be transferred out of the District Court in Fresno and to the District Court in Sacramento, unless all parties consent to magistrate jurisdiction. In light of Plaintiff's filing, and the fact this case will presumably be transferred to the Sacramento Division given the non-responsiveness of various parties in this action, the Court shall order Plaintiff to file any motions to strike by a date certain or otherwise advise the Court of whether Plaintiff

intends to continue prosecuting this action, and shall vacate the currently set pretrial conference and trial dates.

Accordingly, IT IS HEREBY ORDERED that:

1. Within **twenty-one (21) days of entry of this order**, Plaintiff shall file any forthcoming motion to strike Defendants' answers, otherwise advise the Court of whether he intends to continue prosecuting this action;
2. The pretrial conference set for September 1, 2023, and the trial set for October 17, 2023, are VACATED; and
3. The failure to comply with this order will result in the imposition of sanctions, up to and including dismissal of this action.

IT IS SO ORDERED.

Dated: **August 16, 2023**


UNITED STATES MAGISTRATE JUDGE